

Remarks

This Amendment is being filed together with a "Request for Continued Examination (RCE) Transmittal", as a submission pursuant to 37 C.F.R. §1.114(c), and reconsideration of this Patent Application is respectfully requested.

The Office Action mailed December 23, 2008, rejects applicants' claims 11, 12, 19 and 20 under 35 U.S.C. §103(a) as being unpatentable over a proposed combination of the previously cited patent to Chayes et al. (US 1,688,136) with a newly cited patent to Badoz (US 5,647,745). Claims 14 and 15 are rejected under 35 U.S.C. §103(a) as being unpatentable over the proposed combination of Chayes et al. and Badoz, in further combination with the previously cited patent to Euvrard (US 6,155,827). Such rejections of applicants' claims are respectfully traversed, and reconsideration and withdrawal of the presented rejections of claims is respectfully requested.

The Reply which was submitted in this matter on October 3, 2008, discussed the various distinctions present between the claims of this Patent Application and the disclosure of Chayes et al. In this discussion, it was noted that although Chayes et al. disclose a bore 24 for receiving the tool (see, lines 76 to 84 of Page 1), the only "opening" provided in the bore 24 for insertion of the tool into the bore is provided in the bearing member 23 which is associated with the lower end of the bore 24. It was

further noted that while the upper end of the bore 24 of the dental tool holder disclosed by Chayes et al. is provided with a latching device 30 for locking the tool within the driving chuck 21 (see, lines 104 to 106 of Page 1), the latching device 30 is arranged in a chamber which is enclosed (see, lines 25 to 29 of Page 2) by a cover plate 35 which cooperates with the upper surface 33 of the part 38 (see, lines 7 to 11 of Page 2), which would preclude insertion of the tool into the bore 24 through the upper surface 33 of the part 38.

Consequently, it has been demonstrated that the dental tool holder disclosed by Chayes et al. does not incorporate an opening for receiving a tool in accordance with claim 11 of this Patent Application. Claim 11 recites a "housing for receiving the handle of the instrument [which] includes an opening for insertion of the instrument into the housing" and a "retractable retainer [including] a retention member which projects across the opening of the housing". The bottom of the bore 24 of the dental tool holder disclosed by Chayes et al. has an opening. However, none of the structures of the latching device 30 project across this opening. Upper portions of the bore 24 of the dental tool holder disclosed by Chayes et al. (i.e., the part 38) incorporate a latching device 30. However, there is no opening in the part 38 for insertion of the tool into the bore 24. Consequently, there is no disclosure in Chayes et al. of a latching device which extends across an opening provided for the insertion of a

tool into the bore of the head, in accordance with applicants' claim 11.

At the top of page 4 of the Office Action of December 23, 2008 (lines 3 to 5), the position is taken that Chayes et al. disclose a "housing for receiving the... instrument [which] further includes an opening", and a "retractable retainer [which] includes a retention member which projects across the opening". An illustration taken from Chayes et al., at the bottom of page 2 of the Office Action, identifies the specific structures which are considered to constitute the "housing", the "opening" and the "projection".

Firstly, it is submitted that Chayes et al. do not, in fact, disclose the structures attributed to Chayes et al. in the Office Action of December 23, 2008. As previously indicated, the only "opening" provided in the bore 24 of the dental tool holder of Chayes et al. for insertion of the tool into the bore (i.e., the "opening" identified in the illustration at the bottom of page 2 of the Office Action) is provided in the bearing member 23 associated with the lower end of the bore 24. However, the latching device 30 (i.e., the "projection" identified in the illustration at the bottom of page 2 of the Office Action) is said to be "slidable upon an upper surface 33 of the part 38" (page 2, lines 8 and 9; emphasis added). Clearly then, the latching device 30 cannot project across the opening provided in the bore 24 for insertion of the tool, in accordance with

applicants' claim 11, because the structures are located at opposing ends of the bore 24.

Secondly, it is submitted that the analysis of the claim which is provided from line 3 to line 5 of page 4 of the Office Action of December 23, 2008, fails to consider the recited subject matter, as claimed, but rather only considers selected portions of the language presented in the claim. As previously indicated, claim 11 recites a "housing for receiving the handle of the instrument [which] further includes an opening for insertion of the instrument into the housing" (emphasis added). This language is not considered in the Office Action, and as a consequence, Chayes et al. cannot be attributed with the disclosure of a "retractable retainer [including] a retention member which projects across the opening of the housing" (emphasis added), as claimed.

Claims 19 and 20 further address this structural distinction. Claim 19 recites an "opening of the housing [having] a mouth for receiving the handle and the first rotary drive of the instrument". Claim 20 recites an "opening of the housing [which] is located along bottom portions of the housing, adjacent to the first rotary drive of the instrument". Chayes et al. fail to disclose such structure.

Claim 11 further recites "a ring coupled with the retention member and movable relative to the body of the head, against a restoring spring, wherein the ring is mounted

concentrically on the body of the head". The dental tool holder disclosed by Chayes et al. does not incorporate any corresponding structures, which appears to have been acknowledged in the Office Action of December 23, 2008, at lines 8 to 18 of page 4. However, Badoz is cited, in proposed combination with Chayes et al., as a disclosure of such structure.

Firstly, it is submitted that the disclosure of Badoz is not properly combined with the disclosure of Chayes et al. for purposes of rejecting applicants' claims. The Examiner is correct in noting that the bore 24 of Chayes et al. forms a housing for receiving the tool holding part 21 (at line 4 of page 3 of the Office Action), and that the tool holding part 21, including the geared flange 20 of the tool holding part 21, are removably received in the bore 24 (at lines 7 to 9 and 18 to 20 of page 3 of the Office Action). However, Badoz discloses a tube 7 for receiving a dental tool (not shown) which is "held by a plastic collar (8) which is driven on, welded or machined" (col. 2, lines 26 and 27; emphasis added) and which, therefore, cannot be removed from the tool support 4 of the head 1. Consequently, it is submitted that the person of ordinary skill in the art at the time the present invention was made would not have considered combining the fixed structures of Badoz with the removable structures of Chayes et al.

Secondly, and contrary to the position taken in the Office Action of December 23, 2008, at lines 13 to 15 of page 4,

the latch system 9 of Badoz is not a "ring shaped structure", but rather is a longitudinally reciprocating latch. Claim 23 has been newly presented to further emphasize this distinction.

Also to be noted is that the latch system 9 of Badoz is located at an end of the support 4 opposite to the opening which is provided for insertion of the dental tool. As a consequence, the disclosed latch system does not include "a retention member which projects across the opening". Moreover, the dental tool of Badoz is separate from the tube 7 (and the pinion 6) which receive the dental tool.

Accordingly, it is submitted that even if the person of ordinary skill in the art at the time the present invention was made would have considered combining the disclosure of Badoz with the disclosure of Chayes et al., applicants' claim 11 would not have been disclosed by such a combination.

Claim 12 further recites "a shoulder adjacent to the first rotary drive, on a side of the handle nearest to the active part of the instrument, for engagement by the retention member of the retractable retainer". Lines 6 and 7 of page 4 of the Office Action of December 23, 2008, maintain the position that Chayes et al. disclose "a shoulder portion on the instrument which is between shaft 25 and gear 20". This again fails to consider the recited subject matter, as claimed, but rather only considers selected portions of the language presented in the claim. The "shoulder portion" on the instrument disclosed by Chayes et al.

which is between the shaft 25 and the gear 20 does not interact with the latching device 30, clearly distinguishing the subject matter recited in dependent claim 12. Badoz also fails to disclose such structure.

Claims 14 and 15 recite structures including a "sloped surface" and a "horseshoe-shaped profile" associated with the retention member of the retractable retainer, for facilitating interaction between the retention member and the handle of the instrument when the instrument is inserted into the housing for receiving the handle. The Office Action of December 23, 2008, acknowledges that Chayes et al. do not disclose such structures (noting the last line of page 4 and the first two lines of page 5), but once again proposes a combination of Euvrard with Chayes et al. and Badoz for purposes of rejecting claims directed to such structure.

The instrument disclosed by Euvrard (noting Fig. 1) does have sloped surfaces, although it remains unclear which of the sloped surfaces is being referred to in the Office Action. However, as has apparently been noted by the Examiner (at lines 7 to 9 of page 5 of the Office Action), the stopping member 11 of Euvrard does not have sloped surfaces and, therefore, fails to disclose the subject matter which is claimed. Even if the sloped surfaces of the instrument are taken to constitute the profile of the handle of the instrument, there would be no disclosure of any sloped surfaces associated with the stopping member 11 for

cooperating with the profile of the handle, as claimed. There is also no disclosure of the claimed horseshoe-shaped profile. Also to be noted is that the stopping member 11 of Euvrard does not interact with the sloped surfaces of the instrument 1 and, once again, is located at an end of the head 7 opposite to the opening (adjacent to the surface 9 of the shank 1) which is provided for receiving the instrument. Consequently, the stopping member 11 of Euvrard is not adjacent to the opening which is provided for insertion of the instrument into the head 7. Claims 21 and 22 have been newly presented to further emphasize this distinction.

As a consequence, Euvrard would not have constituted a disclosure to the person of ordinary skill in the art at the time the present invention was made of a retention member associated with a retractable retainer having sloped surfaces or horseshoe shaped profiles for purposes of engaging an instrument, contrary to the position taken in the Office Action of December 23, 2008.

It is, therefore, submitted that the pending claims of this Patent Application are not appropriately rejected under 35 U.S.C. §103(a) as being unpatentable over the combinations of Chayes et al., Badoz and Euvrard which have been proposed in the Office Action of December 23, 2008, and accordingly, that this Patent Application is in condition for allowance.

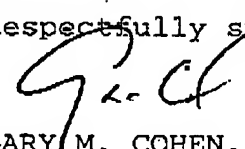
Entry of the present Amendment, and a favorable consideration of this Patent Application in view of the foregoing, is respectfully requested.



An "Information Disclosure Statement" is also submitted with this Amendment, which lists various documents cited during the prosecution of U.S. Patent No. 5,647,745 (Badoz). It has previously been indicated that the claims pending in this Patent Application are considered to patentably distinguish the subject matter of U.S. Patent No. 5,647,745. Nevertheless, because the Examiner has taken the position that the subject matter of U.S. Patent No. 5,647,745 is material to the examination of the present U.S. Patent Application, this Information Disclosure Statement is being filed to advise the U.S. Patent Office of information which may also be considered "material to patentability" in examining this Patent Application, pursuant to the provisions of 37 C.F.R. §1.56.

Corresponding action is earnestly solicited.

Respectfully submitted,

  
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I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office (Fax No. 571-273-8300) on:  
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